

§ 1300.67.02 Transfer of Enrollees Pursuant to a Public Health Order

- (a) Applicability. This section applies to a health plan offering group or individual health care coverage that includes hospital, medical, or surgical benefits, including a grandfathered health plan as defined in section 1251(e) of the Patient Protection and Affordable Care Act. This section does not apply to Medi-Cal managed care health plans with a contract entered into pursuant to Chapter 7 (commencing with section 14000), Chapter 8 (commencing with section 14200), or Chapter 8.75 (commencing with section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code.
- (b) Definitions. The following definitions apply for the purposes of this section:
 - (1) Covered public health order—Means an order issued by the State Public Health Officer pursuant to Division 112 (commencing with section 131000) of the Health and Safety Code, or during a local health emergency as defined in section 101080 of the Health and Safety Code or a state of emergency or local emergency as defined in section 8558 of the Government Code, that directs or allows hospitals or other health care facilities to transfer patients to other health care facilities in response to, or otherwise as a result of, the COVID-19 pandemic. This specifically includes an order issued to allocate or preserve health care resources in the face of increased demand for health care resources related to COVID-19 during a California state of emergency.
 - (2) Transferring facility—Means the health care facility from which an enrollee is transferred as directed or allowed by a covered public health order.
 - (3) Receiving facility—Means the health care facility that receives an enrollee transferred from a transferring facility as directed or allowed by a covered public health order.
- (c) When a health care facility transfers an enrollee pursuant to a covered public health order, the following applies:
 - (1) The enrollee's health plan shall not require prior authorization or prior notice, or impose any other requirements that delay or prevent the transfer of the enrollee.
 - (2) The health plan shall cover the medically necessary costs of moving the enrollee between the transferring facility and the receiving facility.
 - (3) The health plan shall reimburse the receiving facility for all medically necessary services provided to the enrollee during the first 72 hours the enrollee is treated at the receiving facility, regardless of whether the receiving facility has a contract with the health plan.
 - (4) After the first 72 hours, the health plan shall continue to reimburse the receiving facility for all medically necessary services provided to the enrollee at the receiving facility if:
 - (A) within 72 hours of receiving the enrollee, the receiving facility notified the health plan that the facility is treating the enrollee; and
 - (B) the health plan does not disapprove the facility's request to continue

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providing medically necessary care to the enrollee. If the health plan disapproves the receiving facility's request to continue providing medically necessary care to the enrollee, the health plan shall reimburse the receiving facility for medically necessary services the receiving facility provides the enrollee up to the time the health plan effectuates the enrollee's transfer or the enrollee is discharged from the receiving facility.

- (5) If the health plan has a contract with the receiving facility, the health plan shall reimburse the receiving facility per the terms of that contract.
- (6) If the health plan does not have a contract with the receiving facility, the health plan shall reimburse the receiving facility for the reasonable and customary value of the services the enrollee receives at the receiving facility.
- (7) "Reasonable and customary value" has the same meaning as defined in section 1300.71(a)(3)(B) of this title.
- (d) An enrollee transferred pursuant to a covered public health order shall be liable for no more than the cost the enrollee would have incurred if the enrollee had remained in a contracting health facility. For the purpose of this section, contracting health facility has the meaning in subdivision (f)(1) section 1371.9.

NOTE: Authority cited: Section 1343 and 1344, Health and Safety Code. Reference: Sections 1367, 1367.01, and 1367.03.